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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,659	02/26/2002	Tomohiro Nishi	450100-03743	8660

20999 7590 11/25/2005  
FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/085,659

Applicant(s)

NISHI ET AL.

Examiner

BRIAN P. YENKE

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Terminal Disclaimer (23 Sep 05).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on 23 Sep 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Application 10/385225 has been reviewed and is accepted. The terminal disclaimer has been recorded. The 10/385225 application was rejected utilizing the Burstyn reference, and since the applications are not patentably distinct as state in the earlier Double Patenting Rejection, the examiner will rely on the same grounds of rejection (as used in the '225 application).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Burstyn, WO 01/33846.

Regarding claims 1, 8 and 10-23

Burstyn discloses causing a periodic modulation in optical intensity of an original display image in the temporal domain so as to generate an optical state variation in a recorded image that is obtained by image capturing a display image (page 2, Imines 4-10), wherein the optical

state variation is independent of the original display image and generates no interfering effect in the display image, when directly viewed (page 2, Imines 10-14).”, where Burstyn disclose modulating the red, green and/or blue components (which includes the luminance of a signal).

Regarding claim 2,

Burstyn discloses "wherein: an optical intensity is modulated in a sinusoidal waveform in the temporal domain, and an amplitude and a frequency of the sinusoidal waveform are such that the amplitude and frequency of a resulting optical intensity modulation over time in each recorded frame, captured by an image capturing apparatus, are that of a region having contrast greater than or equal to a temporal frequency contrast sensitivity threshold of the human vision at a Luminance Level in the original display image." (Figure 2 shows the sinusoidal waveform', page 5, Line 28 -page 6, Line 2)

Regarding claim 3,

Burstyn discloses "wherein: the amplitude of the sinusoidal waveform is such that the amplitude of the optical intensity modulation is less than or equal to an amplitude value derived from the temporal frequency contrast sensitivity threshold of the human vision at the frequency of the sinusoidal waveform that is defined in claim 4, at a luminance Level of the display image." (Figure 2 shows the sinusoidal waveform, page 5, Line 28 - page 6, line 2).

Regarding claim 4,

Burstyn discloses "wherein: the optical state is modulated in a composite waveform, and at least one combination of amplitudes and frequencies of sinusoidal components of the composite waveform is such that an amplitude and a frequency of the optical state variation in the temporary domain in each recorded frame, captured by an image capturing apparatus, are that of

a region having contrast greater than or equal to a temporal frequency contrast sensitivity threshold of the human vision at a luminance Level in the original display image." (Figure 2 shows the sinusoidal waveform, page 5, Line 28 - page 6, Line 2)

Regarding claim 5,

Burstyn discloses "wherein: the amplitude of the sinusoidal waveform is such that the amplitude of each sinusoidal component waveform is less than or equal to an amplitude value derived from a temporal frequency contrast sensitivity threshold of the human vision at the frequency of the sinusoidal waveform that is defined in claim 6, at a luminance level of the display image." (Figure 2 shows the sinusoidal waveform, page 5, Line 28 - page 6, Line 2)

Regarding claim 6,

Burstyn discloses "wherein: different types of optical intensity modulation are applied at different positions in the display image." (page 6, lines 13-18)

Regarding claim 7, Burstyn discloses wherein: different types of optical intensity modulation are applied at different time periods." (page 7, lines 4-8).

Regarding claim 9, Burstyn discloses wherein: the optical state variation in the recorded image is in the color domain." (page 8, lines 8-10).

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure—see newly cited references on attached form PTO-892.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (571)272-7352.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571)-273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is  
(703)305-HELP.

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The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS).

PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format


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(CRF) sequence listings for pending biotechnology patent applications, which were filed  
in paper form.



B.P.Y.

22 November 2005



**BRIAN P. YENKE**  
**PRIMARY EXAMINER**